

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ENERGY WEST, INCORPORATED,

Plaintiff,

v.

UNITED STATES POWER FUND, L.P.,

Defendant.

Civ. No. 1:09-cv-00591
Judge Christopher A. Boyko

DEFENDANT'S MOTION TO DISMISS THE COMPLAINT

Defendant United States Power Fund, L.P. (“USPF”) respectfully moves this Court for an order dismissing plaintiff Energy West, Incorporated’s complaint with prejudice. This motion is based upon USPF’s memorandum of law in support of its motion to dismiss the complaint, the declaration of John Winship Read, dated November 9, 2011, including the exhibits attached thereto, and all of the papers filed and proceedings had in this action.

Dated: November 9, 2011

VORYS, SATER, SEYMOUR & PEASE LLP

By s/ John Winship Read
John Winship Read (0030827)
Heather M. Lutz (0082237)
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, OH 44114
Tel.: (216) 479-6100
Fax: (216) 479-6060
E-mail: jwread@vorys.com
hmlutz@vorys.com

Of Counsel:

Thomas J. McCormack
Admitted Pro Hac Vice
CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, NY 10112
Tel.: (212) 408-5100
Fax: (212) 541-5369
E-mail: tmccormack@chadbourne.com

Attorneys for Defendant
United States Power Fund, L.P.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was sent via the Court's electronic filing system to all parties of record with the Court on November 9, 2011. Notice of this filing will be served to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ John Winship Read
John Winship Read (0030827)